

Chapter 8

Utah Underground Conversion of Utilities Law

54-8-1 Short title.

This act shall be known and cited as the "Utah Underground Conversion of Utilities Law."

Enacted by Chapter 157, 1969 General Session

54-8-2 Legislative purpose.

The Legislature finds that in many areas of the state, it is in the public interest to convert existing overhead electric and communication facilities to underground locations through the creation of an improvement district. The Legislature hereby declares that a public purpose will be served by providing a procedure to accomplish such conversion and that it is in the public interest to provide for such conversion by proceedings taken pursuant to this chapter whether such areas be within the limits of a city or town or within a county.

Enacted by Chapter 157, 1969 General Session

54-8-3 Definitions.

As used in this chapter:

- (1) "Assessment" means for the purpose of taxation wherever appropriate.
- (2) "Communication service" means the transmission of intelligence by electrical means, including telephone, telegraph, messenger-call, clock, police, fire alarm, and traffic control circuits or the transmission of standard television or radio signals.
- (3) "Convert" or "conversion" means the removal of all or any part of any existing overhead electric or communications facilities and the replacement thereof with underground electric or communication facilities constructed at the same or different locations.
- (4)
 - (a) "Electric or communication facilities" means any works or improvements used or useful in providing electric or communication service, including poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cut-outs, switches, capacitors, meters, communication circuits, appliances, attachments and appurtenances.
 - (b) "Electric facilities" does not include any facilities used or intended to be used for the transmission of electric energy at nominal voltages in excess of 35,000 volts.
- (5) "Electric service" means the distribution of electricity by an electrical corporation for heat, cooling, light or power.
- (6) "Governing body" means the board of commissioners, city council, or board of trustees as may be appropriate depending on whether the improvement district is located in a county or within a city or town.
- (7) "Overhead electric or communication facilities" means electric or communication facilities located, in whole or in part, above the surface of the ground.
- (8) "Point of delivery" means:
 - (a) a meter, for electric facilities; or
 - (b) a network interface device, for communication facilities.

- (9) "Public utility" means any electric corporation or communications corporation that provides electric or communication service to the general public by means of electric or communication facilities.
- (10) "Resolution" means ordinance when the governing body properly acts by ordinance rather than by resolution.
- (11) "Service entrance equipment" means facilities on the property owner's side of the point of delivery that are necessary to accommodate service from a public utility.
- (12) "Underground electric or communication facilities" means electric or communication facilities located, in whole or in part, beneath the surface of the ground.

Amended by Chapter 369, 2008 General Session

54-8-4 Creation of local improvement districts authorized.

The governing body of every county is hereby authorized and empowered to create local improvement districts under this chapter within the unincorporated portion of such county, and the governing body of every city and town is hereby authorized and empowered to create local improvement districts under this chapter within its territorial limits:

To provide for the conversion of existing overhead electric and communication facilities to underground locations and the construction, reconstruction or relocation of any other electric or communication facilities which may be incidental thereto, pursuant to the provisions of this chapter.

Enacted by Chapter 157, 1969 General Session

54-8-5 Apportionment of costs -- Assessment against benefitted property -- Public lands not subject to assessment.

- (1) If an improvement district is created as provided in this chapter, the governing body of the county or municipality that created the improvement district may levy an assessment on property within the district.
- (2)
 - (a) If an assessment is levied under this section, it shall be levied on all blocks, lots, parts of blocks, and lots, tracts, or parcels of property bounding, abutting upon, or adjacent to the improvements or affected or specially benefitted by the improvements to the extent of the benefits to the property because of the improvements.
 - (b) The benefits to the property may be indirect and need not actually increase the fair market value of the property.
- (3) A governing body may levy an assessment under this section to the full depth of the property or to the depth determined by the governing body.
- (4) Assessments under this section shall be equal and uniform according to the benefits received.
- (5)
 - (a) Assessments may be according to area, frontage, assessed value, taxable value, lot, number of connections, or any combination of these methods, as the governing body considers fair and equitable.
 - (b) Different improvements in an improvement district may be assessed according to different methods.
 - (c) The governing body shall make an allowance for corner lots so that they are not assessed at full rate on both sides adjacent to the street.
- (6) The entire cost of the improvement may be assessed against the benefitted property as provided in this section or, if money for paying part of such cost is available from any other

source, the money so available may be so applied and the remaining cost so assessed against the benefitted property.

- (7) The cost and expenses to be assessed as provided in this section shall include the contract price of the improvement, engineering and clerical services, advertising, cost of inspection, cost of collecting assessments, and interest upon bonds if issued, and for legal services for preparing proceedings and advising in regard thereto.
- (8) Fee lands and property of public entities such as the federal government, the state, or any county, city, or town may not be considered as lands or property benefitted by any improvement district, and, unless such public entity within the boundaries of an improvement district consents in writing, filed before the governing body adopts the resolution provided for in Section 54-8-8, the lands and property of such public entity shall not be subject to assessment for the payment of any of the cost or expense of such improvement.

Amended by Chapter 129, 2006 General Session

54-8-6 Creation of improvement district -- Petition by property owners -- Resolution of governing body -- Utilities to submit reports.

- (1)
 - (a) A governing body may, upon a petition signed by two-thirds of the owners of the real property and the owners of not less than two-thirds in value of the real property, as shown by the last assessment rolls, of any proposed district requesting the creation of an improvement district as provided for in this chapter, pass a resolution at any regular or special meeting declaring that it finds that the improvement district proposed is in the public interest.
 - (b) In order to pass a resolution under Subsection (1)(a), the governing body shall determine that the formation of the local improvement district for the purposes set out in this chapter will promote the public convenience, necessity, and welfare.
- (2) Each resolution adopted under Subsection (1) shall:
 - (a) state that the costs and expenses will be levied and assessed upon the property benefitted;
 - (b) request that each public utility corporation serving such area by overhead electric or communication facilities shall, within 120 days after the receipt of the resolution, make a study of the cost of conversion of its facilities in such area to underground service; and
 - (c) require that the public utilities be provided with the name and address of the owner of each parcel or lot within the proposed improvement district, if known, and, if not known, the description of the property and other matters required by the public utility corporations in order to perform the work involved in the cost study.
- (3) Each public service corporation serving the improvement district area by overhead electric or communication facilities shall:
 - (a) within 120 days after receipt of the resolution, make a study of the costs of conversion of its facilities in the district to underground service; and
 - (b) provide the governing body and make available to its office a report, prepared jointly with each other public service corporation serving the improvement district area by overhead electric or communication facilities, as to the results of the study.
- (4) The governing body shall make each report under Subsection (3) available in its office to each owner of land within the improvement district.

Amended by Chapter 129, 2006 General Session

54-8-7 Reports of utilities -- Recommendations -- Estimate of costs.

The public utility or utilities report shall set forth an estimate of the total underground conversion costs and shall also indicate the costs of underground conversion of facilities of the public utility corporations located within the boundaries of the various parcels or lots then receiving service. The report shall also contain the public utility corporations' recommendations concerning the feasibility of the project for the district proposed in so far as the physical characteristics of the district and the facilities of the public utilities within the district are concerned. The report shall make recommendations by the public utility corporations concerning inclusion or exclusion of areas within the district or immediately adjacent to the district. The governing body shall give careful consideration to the public utility corporations' recommendations concerning feasibility, recognizing their expertise in this area, and may amend the boundaries of the proposed improvement district provided that the costs and feasibility report of the public utilities contains a cost figure on the district as amended or it may request a new costs and feasibility report from the public utilities concerned on the basis of the amended district. The cost estimate contained in the report shall not be considered binding on the utilities if construction is not commenced within six months of the submission of the estimate for reasons not within the control of the utility. Should such a delay result in a significant increase of the conversion costs, new hearings shall be held on the creation of the district. In the event that only a minor increase results, only the hearing on the assessments need be held again.

Enacted by Chapter 157, 1969 General Session

54-8-8 Approval of utilities' report by governing body -- Passage of resolutions -- Contents.

On the filing with the clerk of any governing body of the costs and feasibility report by the public utility corporation(s), as hereinbefore provided and after considering the same, the governing body may, at any regular or special meeting, pass a resolution declaring its intention to create a local improvement district. The resolution shall state that the costs and expenses of the district created are, except as otherwise provided for, to be levied and assessed upon the abutting, adjoining, and adjacent lots and land along or upon which improvements are to be made, and upon lots and lands benefited by such improvements and included in the improvement district created; that it is the intention of the governing body to make such improvement which will promote the public welfare; and shall further state the area and boundaries of the proposed improvement district, the character of the proposed improvement, the estimated total cost of the same, and the intention of the governing body to hold or cause to be held a public hearing on the proposed improvement.

Enacted by Chapter 157, 1969 General Session

54-8-9 Public hearing -- Notice -- Contents.

- (1) After the passage of the resolution in Section 54-8-8, the governing body shall cause notice of a public hearing on the proposed improvement to be given as provided in Section 54-8-10.
- (2) The notice required under Subsection (1) shall:
 - (a) describe the boundaries or area of the district with sufficient particularity to permit each owner of real property in the proposed district to ascertain that the owner's property lies in the district;
 - (b) describe in a general way the proposed improvement, specifying the streets or property along which it will be made and the nature of the benefits to the property within the district;
 - (c) state the estimated cost as determined from the costs and feasibility report and including the contract price of the improvement and the cost of engineering and clerical service,

advertising, inspection, collection of assessments, interests upon bonds, if issued, and for legal services for preparing proceedings and advising in regard to them;

- (d) state that it is proposed to assess the real property in the district to pay all or a designated portion of the cost of the improvement according to the method determined by the governing body under Section 54-8-5;
- (e) state the date, time, and place that the governing body will conduct a public hearing upon the proposed improvement and on the question of benefits to be derived by the real property in the district;
- (f) state that all interested persons will be heard and that any property owner will be heard on the question of whether his property will be benefitted by the proposed improvement; and
- (g) designate the date, time, and place of a public hearing at which the governing body will consider objections to the creation of the proposed district and the making of the proposed improvements.

Amended by Chapter 129, 2006 General Session

54-8-10 Public hearing -- Notice -- Publication.

- (1) Such notice shall be:
 - (a)
 - (i) published:
 - (A) in full one time in a newspaper of general circulation in the district; or
 - (B) if there be no such newspaper, in a newspaper of general circulation in the county, city, or town in which the district is located; and
 - (ii) published on the Utah Public Notice Website created in Section 63F-1-701; and
 - (b) posted in not less than three public places in the district.
- (2) A copy of the notice shall be mailed by certified mail to the last known address of each owner of land within the proposed district whose property will be assessed for the cost of the improvement.
- (3) The address to be used for that purpose shall be that last appearing on the real property assessment rolls of the county in which the property is located.
- (4) In addition, a copy of the notice shall be addressed to "Owner" and shall be so mailed addressed to the street number of each piece of improved property to be affected by the assessment.
- (5) Mailed notices and the published notice shall state where a copy of the resolution creating the district will be available for inspection by any interested parties.

Amended by Chapter 90, 2010 General Session

54-8-11 Protests -- Hearings -- Representatives of utilities to be present -- Changes in proposal -- Adoption or abandonment of project.

- (1)
 - (a) On the date and at the time and place specified in the notice under Section 54-8-9, the governing body shall in open and public session hear all objections to the creation of the proposed district, the making of the proposed improvements, and the benefits accruing to any tract, block, lot, or parcel of land in the proposed district.
 - (b) Representatives of the public utilities concerned shall be present at each hearing under Subsection (1)(a).

- (c) A hearing under Subsection (1)(a) may be adjourned from time to time to a fixed future time and place.
 - (d) If at any time during a hearing under Subsection (1)(a), it appears to the governing body that changes in the proposed improvements or the proposed district should be made, which, after consultation with the public utilities concerned, appear to affect either the cost or feasibility of the improvements, the hearing shall be adjourned to a fixed future time and place and a new costs and feasibility report prepared on the basis of the contemplated changes.
- (2) After the hearing has been concluded and after all persons desiring to be heard have been heard, the governing body:
- (a) shall consider the arguments put forth;
 - (b) may make changes in the area to be included in the district as it considers desirable or necessary, if a costs and feasibility report has been prepared on the basis of those changes; and
 - (c) shall adopt a resolution either abandoning the district and project or determining to proceed with the district and project, either as described in the notice or with changes made as authorized in this section.

Amended by Chapter 129, 2006 General Session

54-8-12 Property owners failing to appear at hearings -- Waiver of rights.

Every person who has real property within the boundaries of the district and who fails to appear before the governing body at the hearing and make any objection he may have to the creation of the district, the making of the improvements and the inclusion of his real property in the district, shall be deemed to have waived every such objection. Such waiver shall not, however, preclude his right to object to the amount of the assessment at the hearing for which provision is made in Section 54-8-17.

Enacted by Chapter 157, 1969 General Session

54-8-13 Assessment list to be prepared.

After a decision is taken by a governing body to proceed with the district and project, it shall cause to be prepared an assessment list detailing the total amount to be assessed, the specific properties assessed, and the amount of assessment on each piece of property.

Enacted by Chapter 157, 1969 General Session

54-8-14 Declaration of costs -- Contents of resolution.

After the preparation of the proposed assessment list, the governing body shall cause to be prepared for adoption at the hearing hereinafter provided for, a resolution declaring the entire cost of the improvement including the cost of construction as determined from the costs and feasibility report and other incidental costs, legal and fiscal fees and costs, the cost of the publication of notices and all other costs properly incident to the construction of the improvement and the financing thereof. Such resolution shall specify what share, if any, of the total cost is payable from sources other than the imposition of assessments and shall incorporate the proposed assessment list provided for in Section 54-8-13.

Enacted by Chapter 157, 1969 General Session

54-8-15 Board of equalization and review -- Appointment -- Functions and authority.

Whenever the governing body of any municipality shall propose to levy any tax under any provision of this chapter, it shall before doing so, appoint a board of equalization and review which shall consist of three or more of its members. This board shall perform the functions of the governing body under Sections 54-8-16 and 54-8-17 and shall have authority to make corrections in the proposed assessments under the provisions of Section 54-8-17. After having concluded the public hearings provided for in Section 54-8-17, the board shall make a report to the body appointing it of any changes or corrections made by it in the assessment list together with its finding that each piece of property within the improvement district will be benefited in amounts not less than the assessment to be levied against such property.

Amended by Chapter 92, 1987 General Session

54-8-16 Notice of assessment -- Publication.

- (1) After the preparation of a resolution under Section 54-8-14, notice of a public hearing on the proposed assessments shall be given.
- (2) The notice described in Subsection (1) shall be:
 - (a) published:
 - (i) one time in a newspaper in which the first notice of hearing was published at least 20 days before the date fixed for the hearing; and
 - (ii) on the Utah Public Notice Website created in Section 63F-1-701, for at least 20 days before the date fixed for the hearing; and
 - (b) mailed by certified mail not less than 15 days prior to the date fixed for such hearing to each owner of real property whose property will be assessed for part of the cost of the improvement at the last known address of such owner using for such purpose the names and addresses appearing on the last completed real property assessment rolls of the county wherein said affected property is located.
- (3) In addition, a copy of such notice shall be addressed to "Owner" and shall be so mailed addressed to the street number of each piece of improved property to be affected by such assessment.
- (4) Each notice shall state that at the specified time and place, the governing body will hold a public hearing upon the proposed assessments and shall state that any owner of any property to be assessed pursuant to the resolution will be heard on the question of whether his property will be benefited by the proposed improvement to the amount of the proposed assessment against his property and whether the amount assessed against his property constitutes more than his proper proportional share of the total cost of the improvement.
- (5) The notice shall further state where a copy of the resolution proposed to be adopted levying the assessments against all real property in the district will be on file for public inspection, and that subject to such changes and corrections therein as may be made by the governing body, it is proposed to adopt the resolution at the conclusion of the hearing.
- (6) A published notice shall describe the boundaries or area of the district with sufficient particularity to permit each owner of real property therein to ascertain that his property lies in the district.
- (7) The mailed notice may refer to the district by name and date of creation and shall state the amount of the assessment proposed to be levied against the real property of the person to whom the notice is mailed.

Amended by Chapter 90, 2010 General Session

54-8-17 Assessments -- Hearings on -- Corrections of -- Assessment not to exceed benefit.

On the date and at the time and place specified in the aforesaid notice, the governing body shall, in open and public session, hear all arguments relating to the benefits accruing to any tract, block, lot or parcel of land therein and the amounts proposed to be assessed against any such tract, block, lot or parcel. The hearing may be adjourned from time to time to a fixed future time and place. After the hearing has been concluded and all persons desiring to be heard have been heard, the governing body shall consider the arguments presented and shall make such corrections in the assessment list as may be considered just and equitable. Such corrections may eliminate, may increase, or may decrease the amount of the assessment proposed to be levied against any piece of property. However, no increase of any proposed assessment shall be valid unless the owner of the property is given notice and an opportunity to be heard. After such corrections have been made, the governing body shall make a specific finding that no proposed assessment on the corrected assessment list exceeds the benefit to be derived from the improvement by the piece of property to be so assessed and that no piece of property so listed will bear more than its proper proportionate share of the cost of such improvement.

Enacted by Chapter 157, 1969 General Session

54-8-18 Assessments -- Resolution to adopt.

After the public hearing has been concluded and all corrections made to the assessment list, and in the case of a municipality, after receiving the report from the board of equalization and review, the governing body shall proceed to adopt the assessment resolution.

Enacted by Chapter 157, 1969 General Session

54-8-19 Assessments -- Right to levy against property -- Due date -- Notice -- Payment in annual installments.

- (1) The governing body may levy the assessments under the assessment list in whole or in part at any time after the adoption of the assessment resolution, but if not levied as a whole, any partial levies shall be made on the basis of completed improvements and the property benefited by the improvements.
- (2) The amount of the assessment will become due and collectible immediately upon the levying of the assessment and, if it is not paid within 30 days from the date of the levy, it shall, at the expiration of the 30 days, commence to bear interest at a rate fixed by the governing body but not to exceed 7% per annum.
- (3)
 - (a) Notice shall be given in the same manner as provided in Section 54-8-16.
 - (b) The notice under Subsection (3)(a) shall:
 - (i) specify the date and amount of the levy affecting each tract, block, lot, or parcel, the date when interest will commence, the amount of such interest, and the period of years over which installment payments may be made;
 - (ii) identify the easement that may be acquired by Subsection 54-8-26(2); and
 - (iii) be recorded in the office of the recorder of the county in which the tract, block, lot, or parcel is located.
- (4)
 - (a) If the assessment is not paid within the 30 days allowed, each owner shall be presumed to exercise the right and option to pay the amount due in equal annual installments bearing

interest at the rate specified in the notice and extending over the period of years, not exceeding 20 specified in the notice.

- (b) The first installment shall become due one year from the date when interest commenced, and one installment shall become due on the same day of the same month annually thereafter.
- (c) Any assessment may be prepaid on any annual installment date without interest penalty provided the total balance of the assessment, including accrued interest, costs and penalties, be paid.

Amended by Chapter 129, 2006 General Session

54-8-20 Assessments -- Failure to pay installment -- Interest and penalties -- Lien on property -- Sale of property -- Disposition of proceeds.

The failure to pay any installment and any interest thereon when due shall ipso facto cause all other installments and the interest thereon to become due and payable and the governing body shall, within 30 days from the date of such default, proceed against the property for the collection of the total amount due thereon, including interest plus 10% additional on unpaid principal and interest as penalties and costs of collection. Special assessments levied hereunder shall rank on an equality with taxes levied against the property assessed by the state, the county and all other taxing districts, and no sale of property for the nonpayment of taxes or other special assessments shall extinguish the lien of other than the taxes or special assessments for the nonpayment of which such sale is had. The proceeds of the sale of any property for nonpayment of special assessments shall be applied in the discharge of such assessments, the interest thereon, costs and penalties. If there are outstanding any special improvement bonds issued pursuant to the improvement in question, proceeds of the sale of any property for nonpayment of any special assessments shall after the payment therefrom of the costs of collection be applied to the costs of redemption prior to maturity of as many of the outstanding special improvement bonds as can be retired with the amount available. Any surplus remaining after the payment of amounts due shall be paid over to the owner of the property sold. The lien of special assessments levied hereunder shall be superior to all other liens against the property assessed except that it shall be on a parity with the lien of ad valorem taxes and a lien of other special assessments and shall be effective from and after the date upon which the resolution levying the assessments is adopted.

Enacted by Chapter 157, 1969 General Session

54-8-21 Assessments -- Prepayment of unpaid installments.

The governing body may in the resolution levying the assessments provide that all unpaid installments of assessments levied against any piece of property may (but only in their entirety) be paid prior to the dates on which they become due if the property owner paying such installments pays all interest which would accrue thereon to the next succeeding date on which interest is payable on the bonds issued in anticipation of the collection of the assessments, together with such additional amount of interest as in the opinion of the governing body is necessary to assure the availability of money fully sufficient to pay interest on the bonds as interest becomes due and any redemption premiums which may become payable on the bonds in order to retire in advance of maturity bonds in a sufficient amount to utilize the assessments thus paid in advance. If no bonds have been issued then all unpaid installments of assessments levied against any piece of property may be paid in their entirety prior to the date upon which they become due by paying the principal amount due and the interest accrued thereon to the date of payment.

Enacted by Chapter 157, 1969 General Session

54-8-22 Bonds -- Issuance authorized -- Amount -- Interest -- Additional requirements.

After the expiration of 30 days from the date of the adoption of the resolution levying the assessments, the county legislative body may issue negotiable interest-bearing bonds in a principal amount not exceeding the unpaid balance of the assessments levied. The bonds shall bear interest at not exceeding 7% per annum, payable semiannually or annually, and shall mature serially over a period not exceeding 20 years, but in no event shall such bonds extend over a longer period of time than the period of time over which such installments of special assessments are due and payable and 90 days thereafter. The bonds shall be of such form and denomination and shall be payable in principal and interest at such times and place, and shall be sold, authorized, and issued in such manner as the county legislative body may determine. The bonds shall be dated no earlier than the date on which the special assessment shall begin to bear interest, and shall be secured by and payable from the irrevocable pledge and dedication of the funds derived from the levy and collection of the special assessments in anticipation of the collection of which they are issued. Any premium received on the sale of the bonds may be applied as other bond proceeds or if not so applied the same shall be placed in the fund for the payment of principal of and interest on the bonds. The bonds shall be callable for redemption from the proceeds of any property sold for the nonpayment of special assessments but not otherwise unless the bonds on the face thereof provide for redemption prior to maturity, and the county legislative body may provide that the bonds shall be redeemable on any interest payment date or dates prior to maturity pursuant to such notice and at such premiums as it deems advisable. The bonds shall be signed by the county executive and the chair of the county legislative body and shall be countersigned by the city recorder or the clerk of the board of the town trustees or the clerk of the county legislative body, whichever is applicable, and one of such signatures may be a facsimile signature. Interest may be evidenced by interest coupons attached to such bonds and signed by a facsimile signature of one of the individuals who signed the bond.

Amended by Chapter 227, 1993 General Session

54-8-23 Objection to amount of assessment -- Civil action -- Litigation to question or attack proceedings or legality of bonds.

- (1) No special assessment levied under this chapter shall be declared void, nor shall any such assessment or part thereof be set aside in consequence of any error or irregularity permitted or appearing in any of the proceedings under this chapter, but any party feeling aggrieved by any such special assessment or proceeding may bring a civil action to cause such grievance to be adjudicated if such action is commenced prior to the expiration of the period specified in this section.
- (2) The burden of proof to show that such special assessment or part thereof is invalid, inequitable or unjust shall rest upon the party who brings such suit.
- (3) Any such litigation shall not be regarded as an appeal within the meaning of the prohibition contained in Section 54-8-18.
- (4) Every person whose property is subject to such special assessment and who fails to appear during the public hearings on said assessments to raise his objection to such tax shall be deemed to have waived all objections to such levy except the objection that the governing body lacks jurisdiction to levy such tax.
- (5) For a period of 20 days after the governing body has adopted the enactment authorizing the assessment, any taxpayer in the district shall have the right to institute litigation for the purpose

of questioning or attacking the proceedings pursuant to which the assessments have been authorized subject to the provisions of the preceding paragraph.

- (6) Whenever any enactment authorizing the issuance of any bonds pursuant to the improvement contemplated shall have been adopted such resolution shall be published:
 - (a) once in a newspaper in which the original notice of hearing was published; and
 - (b) as required in Section 45-1-101.
- (7) For a period of 20 days thereafter, any person whose property shall have been assessed and any taxpayer in the district shall have the right to institute litigation for the purpose of questioning or attacking the legality of such bonds.
- (8) After the expiration of such 20-day period, all proceedings theretofore had by the governing body, the bonds to be issued pursuant thereto, and the special assessments from which such bonds are to be paid, shall become incontestable, and no suit attacking or questioning the legality thereof may be instituted in this state, and no court shall have the authority to inquire into such matters.

Amended by Chapter 388, 2009 General Session

54-8-24 Payment to utilities -- Allowable costs.

- (1) In determining the conversion costs included in the costs and feasibility report required by Section 54-8-7, the public utility corporations shall be entitled to amounts sufficient to repay them for the following, as computed and reflected by the uniform system of accounts approved by the Public Service Commission, Federal Communications Commission, or Federal Power Commission:
 - (a) the original costs less depreciation taken of the existing overhead electric and communication facilities to be removed;
 - (b) the estimated costs of removing such overhead electric and communication facilities, less the salvage value of the facilities removed;
 - (c) if the estimated cost of constructing underground facilities exceeds the original cost of existing overhead electric and communication facilities, then the cost difference between the two; and
 - (d) the cost of obtaining new easements when technical considerations make it reasonably necessary to utilize easements for the underground facilities different from those used for aboveground facilities, or where the pre-existing easements are insufficient for the underground facilities.
- (2) Notwithstanding Subsection (1), if conversion costs are included in tariffs, rules, or regulations filed with or promulgated by the Public Service Commission such conversion costs shall be the costs included in the costs and feasibility report.

Amended by Chapter 306, 2007 General Session

54-8-25 Utilities responsible for work -- May subcontract -- Title to converted facilities retained.

- (1) The utility concerned:
 - (a) shall be responsible for the accomplishment of all construction work to the point of delivery; and
 - (b) may contract out any part of the construction work as it considers desirable.
- (2) Title to the converted facilities shall be at all times solely and exclusively vested in the public utility corporations involved.

- (3) The public body, improvement district, or the public generally will not own the facilities at any time and the public is purchasing only the intangible benefits which come from converted facilities, that is the removal of the overhead facilities and replacement by underground facilities.

Amended by Chapter 369, 2008 General Session

54-8-26 Notice that service from underground facilities is available -- Consequences of failure to convert overhead facilities.

- (1)
- (a) If service from the underground public utility is to be made available to all or part of an improvement district area, the governing body of the county or municipality that created the district shall mail a notice to each owner of real property served from existing overhead facilities stating that:
 - (i) conversion of all facilities owned within the improvement district by a public utility from overhead to underground to the point of delivery is proceeding;
 - (ii) the property owner is responsible for the changes in the service entrance equipment located on the property to accommodate the conversion of the applicable public utility's facilities from overhead to underground at the point of delivery; and
 - (iii) each owner shall coordinate with the applicable public utility to make the conversion from overhead to underground service.
 - (b) In addition to improvement district assessments, the property owner shall bear the expense of the conversion from overhead to underground described in Subsections (1)(a)(ii) and (iii).
 - (c) Each conversion of overhead facilities to underground facilities shall comply with all applicable state and local laws, ordinances, rules, and regulations, and with all tariffs of the applicable public utility.
 - (d) The public utility or its contractor shall perform the necessary construction to the point of delivery, unless the public utility authorizes another to perform the construction.
- (2)
- (a) Failure to have the property owner's service entrance equipment described in Subsection (1)(a)(ii) converted to accommodate underground service within the time that the governing body specifies in writing shall be considered as the property owner's consent to and grant of a construction easement to the county or municipality and as express authority to the county or municipality to arrange for qualified persons to enter upon the lot or parcel for the purpose of making the required changes.
 - (b) A construction easement under Subsection (2)(a) terminates upon completion of the conversion of overhead facilities to underground.
- (3) If the county or municipality arranges for the conversion of the service entrance equipment, all county, municipal, and public utility costs and expenses of the conversion, including the engineering, legal, advertising, and incidental expenses, shall be assessed against the property upon which the service entrance equipment was converted and become a lien upon the property served.

Amended by Chapter 369, 2008 General Session

54-8-27 Bill for conversion costs -- Not to exceed estimate -- Payment within 30 days -- Accounting procedures.

Upon completion of the conversion contemplated by this chapter, the public utility corporation shall present the governing body with its verified bill for conversion costs as computed pursuant to Section 54-8-24 but based upon the actual cost of constructing the underground facility rather than the estimated cost of the facility. In no event shall the bill for conversion cost presented by the public utility corporation exceed the amount of estimated conversion costs by the public utility corporation. In the event the conversion costs are less than the estimated conversion costs, each owner within the improvement district shall receive the benefit, prorated in such form and at such time or times as the governing body may determine. The bill of the public utility corporation shall be paid within 30 days by the governing body from the improvement district funds. In determining the actual cost of constructing the underground facility the public utility shall use its standard accounting procedures, such as the Uniform System of Accounts as defined by the Federal Communications Commission or the Federal Power Commission and as is in use at the time of the conversion by the public utility involved.

Enacted by Chapter 157, 1969 General Session

54-8-28 Additional overhead facilities prohibited -- Exception.

Once removed, no overhead electric or communication facilities shall be installed within the boundary of a local improvement district for conversion of overhead electric and communication facilities in nominal voltages of less than 35,000 volts.

Enacted by Chapter 157, 1969 General Session

54-8-29 Jurisdiction over public utilities.

Nothing contained in this chapter shall vest any jurisdiction over public utilities in the governing bodies. The Public Service Commission of Utah shall retain all jurisdiction now or hereafter conferred upon it by law.

Enacted by Chapter 157, 1969 General Session

54-8-30 Commencement of conversion -- When required.

If an improvement district is established pursuant to this chapter, the public utility corporations involved shall not be required to commence conversion until the ordinance, the assessment roll and issuance of bonds have become final and no civil action has been filed or if civil action has been filed, until the decision of the court upon the action has become final and is not subject to further appeal.

Enacted by Chapter 157, 1969 General Session